

10/5544/9

Translation

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>2003P06043WO</b>	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. <b>PCT/EP2004/004151</b>	International filing date (day/month/year) <b>19.04.2004</b>	Priority date (day/month/year) <b>12.05.2003</b>
International Patent Classification (IPC) or national classification and IPC		
Applicant <b>SIEMENS AKTIENGESELLSCHAFT</b>		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>6</u> sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																	
<p>4. This report contains indications relating to the following items:</p> <table border="0"> <tr> <td><input checked="" type="checkbox"/> Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/> Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/> Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/> Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/> Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/> Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/> Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>		<input checked="" type="checkbox"/> Box No. I	Basis of the report	<input type="checkbox"/> Box No. II	Priority	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/> Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/> Box No. VI	Certain documents cited	<input type="checkbox"/> Box No. VII	Certain defects in the international application	<input type="checkbox"/> Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/004151

Box No. I

## Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 3-9 \_\_\_\_\_ as originally filed/furnished
- pages\* 1, 2, 2a \_\_\_\_\_ received by this Authority on 14.03.2005 with telefax
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* 1-12 \_\_\_\_\_ received by this Authority on 14.03.2005 with telefax
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- sheets 1/8-8/8 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☒ the claims, nos. 1 \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-12	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-12	NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
3.	The present application does not meet the requirements of PCT Article 33(1) because the subject matter of independent claim 1 does not involve an inventive step (PCT Article 33(3)).		
4.	Reference document EP-A-0 899 758 ((D2) is regarded as the closest prior art.		
	D2 discloses a pushbutton assembly having (see D2: abstract; column 4, line 58 - column 5, line 7; column 5, lines 15-17; and column 6, lines 14-51):		
	<ul style="list-style-type: none"> <li>• a pushbutton (see D2: figures 1, 2 and 9, reference sign 11);</li> <li>• a front element having a front side facing the user and a rear side (see D2: figures 1, 3 and 9, reference sign 15); and</li> <li>• a passage in the front element through which the pushbutton is movable (see D2: figures 1-3 and 9, reference sign 15a).</li> </ul>		
	In that assembly,		

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

- the passage is surrounded by a first contact surface with the front element (see D2: figure 3, reference sign 15b);
- the pushbutton has a second contact surface that faces the first contact surface and is designed in such a way that it rests on the first contact surface in a non-actuated position (see D2: figures 2 and 9, reference sign 11b);
- upon actuation, the second contact surface moves away from the first contact surface (this is implicit from the arrangement shown in D2); and
- the second contact surface of the pushbutton is tensioned by a compression spring against the first contact surface of the passage (see D2: figure 9, reference sign 17).

5. The control device as per claim 1 therefore differs from the known pushbutton assembly in that *"the control element has a holding-down portion interlocked with a holding-down element on the rear side of the front element, so that, in the absence of the front element, the restoring force applied by the first elastic element to the control element is taken up by the holding-down element by means of the holding-down portion."*

The effect of these characterising features is that of holding the control element in position in the absence of the front element, for example when assembling or dismantling the claimed control device. This makes it easier to assemble and

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

disassemble the device.

However, the solution proposed in claim 1 cannot be considered inventive (PCT Article 33(3)). The claimed arrangement for holding pushbuttons in position is familiar to a person skilled in the art, as shown for example in document US-A-4 355 211 (D5); see column 2, line 52 - column 3, line 2, and figures 1-7. D5 describes a pushbutton having a collar with a projection (see D5: figure 1, reference signs 22 and 24) interlocked with a holding-down element on the rear side of a telephone housing (see D5: figure 1, reference signs 10, 14 and 26) in such a way that, in the absence of the telephone housing, the restoring force applied by a compression spring to the pushbutton is taken up by the holding-down element by means of the collar (see D5: column 2, line 62 - column 3, line 2).

Documents US-A-5 172 805 (D6) and JP 2002-343191 (D4) also show that these solutions are familiar to a person skilled in the art.

The assembly described in D2 has the disadvantage that the pushbutton takes an uncontrollable position in the absence of the front element, i.e. the pushbutton is not held in position and the pushbutton assembly thus falls apart. This is clear from figure 9.

If a person skilled in the art wanted to overcome

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>this disadvantage of the pushbutton assembly described in D2, he could easily apply the solution described in D5, to like effect, to the subject matter of D2. He would thus arrive at a control device as per claim 1, without being inventive.</p> <p>The subject matter of independent claim 1 therefore does not meet the requirements of PCT Article 33(3).</p> <p>6. Dependent claims 2-12 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT inventive step requirements; see documents D1-D6 and the corresponding passages indicated in the search report.</p> <p>7. Claims 1-12 are industrially applicable (PCT Article 33(4)).</p>

## Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

**BOX I****Basis of the report**

1. The amendments submitted introduce substantive matter which goes beyond the original disclosure of the international application as filed, and thus contravene PCT Article 34(2)(b).

This concerns, in particular, the following amendment to claim 1: a holding-down portion (...) interlocked **with the support** (...) in such a way that..."

According to the original application documents, the support is always arranged on the rear side of the front element, which in turn is always secured to the support (see, for example, the original combination of claims 12-13 and the original pages 5 (lines 18-33) and 9 (lines 1-7) of the description). However, the amended claim 1 has not been restricted accordingly. There is no basis in the originally filed application for the claimed generalised feature of a "support", i.e. a support that would not be arranged on the rear side of a front element, for example, and to which no front element would be secured.

2. This report was therefore established without taking into account said amendment (PCT Rule 70.2(c)).